



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

November 9, 2021

CBCA 7210-DBT

In the Matter of TASHA J.

Tasha J., Petitioner.

Kimberly I. Thayer, Office of General Counsel, National Tort Claims Center, General Services Administration, Kansas City, MO, appearing for General Services Administration.

SULLIVAN, Board Judge.

Petitioner sought a hearing concerning the existence of a debt the General Services Administration (GSA) asserts she owes as a result of an automobile accident that occurred on September 15, 2018. Based upon the evidence supplied by GSA, the Board finds that GSA has not properly met its burden to establish that petitioner is liable for the debt.

Background

The relevant automobile accident occurred in Cameron, North Carolina. An individual other than petitioner struck the rear end of a GSA-owned vehicle. The North Carolina State Police issued a citation to that individual for exceeding a safe speed. Petitioner owns the vehicle that the individual was driving at the time of the accident. The citation includes different residential addresses for petitioner and the driver.

GSA contends that petitioner is responsible for this debt because of a purported familial connection between her and the driver. In its first demand for payment, dated November 15, 2018, GSA simply asserted that petitioner was liable, with no explanation as to the basis for its assertion. In the Board's initial procedures order, the undersigned advised the parties that GSA bore the burden to establish both that petitioner owed a debt and the amount of that debt. The order directed GSA to present any evidence that it wanted the Board to consider, including "any evidence that establishes [petitioner's] legal responsibility

for the accident.” Board’s Order (Sept. 22, 2021) at 2. In response to this order, GSA states that “[petitioner] shares a [last] name with the driver of the vehicle The presumption is that there is a familial relationship.” GSA Statement (Oct. 15, 2021) at 6.

The debt GSA asserts is based upon a repair estimate of \$4718 and a tow bill of \$236. GSA initially sought a total of \$4954, but the debt currently stands at \$7789.15 through the application of Department of the Treasury fees and interest.

The Board’s initial procedures order provided that the Board would convene a teleconference after GSA’s submission. Because GSA has not provided evidence to establish petitioner’s liability pursuant to North Carolina law, the Board deems further proceedings in this matter unnecessary.

Discussion

GSA’s administrative wage garnishment regulation applies “to any GSA program that gives rise to a delinquent non-tax debt owed to the United States and that pursues recovery of such debt.” 41 CFR 105-57.001(c)(1) (2018). “[T]he terms ‘claim’ and ‘debt’ are synonymous and interchangeable.” *Id.* 105-57.002(k). A debt or claim is defined as follows:

[A]n amount of money, funds, or property that has been determined by GSA to be due the United States from any person, organization, or entity, except another Federal agency, from sources which include loans insured or guaranteed by the United States and all other amounts due the United States from fees, leases, rents, royalties, services, sales of real or personal property, overpayments, penalties, damages, interest, fines and forfeitures and all other similar sources including debts administered by a third party as an agent for the Federal Government.

Id.

GSA has the burden of proving the existence and amount of a debt. 41 CFR 105-57.005(f)(1). To meet its burden, GSA needs to establish that (1) a tort has occurred and (2) the alleged debtor is in fact liable for any resulting damages. *James H.*, CBCA 7130-DBT (Oct. 27, 2021). State law will be applied to determine liability. *Id.*

GSA asserts that petitioner is liable for the driver’s action while driving her car under the family purpose doctrine. This doctrine holds that the owner of a vehicle will be liable for its negligent use by another member of the household when:

(1) the operator was a member of his family or household and was living in his home, (2) that the vehicle was owned, provided and maintained for the general use, pleasure and convenience of his family, and (3) that the vehicle was being so used by a member of his family at the time of the accident with his express or implied consent.

Williams v. Wachovia Bank & Trust Co., 292 N.C. 416, 419-20 (N.C. 1977). Absent application of the doctrine, “[t]he owner of an automobile is not liable for damages caused by it merely because of its ownership.” *Hinson v. Virginia-Carolina Chemical Corp.*, 230 N.C. 476, 480 (N.C. 1949).

GSA has failed to establish that petitioner is liable through the application of this doctrine. The citation issued by the police establishes that petitioner and the driver who struck the GSA vehicle were not members of the same household at the time of the accident. GSA has not put forth any other theories regarding how petitioner should be held liable; therefore it has failed to meet its burden.

Decision

The Board finds that a legally enforceable debt does not exist. The suspension of collection of the debt in this matter is permanent, and any amounts collected shall be promptly refunded to petitioner.

Marian E. Sullivan
MARIAN E. SULLIVAN
Board Judge